

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re _____) Case No. 05-26557-C-7
PAUL D. PORTER and) DC No. SB-1
DAWN M. PORTER,)
Debtors.)
_____)

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON MOTION FOR RELIEF FROM AUTOMATIC STAY**

These findings of fact and conclusions of law are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

Findings of Fact

Debtors filed this voluntary chapter 7 petition on May 31, 2005. They scheduled a 2004 Saturn Ion ("vehicle") as an asset of the estate. In Debtors' Statement Of Intention, they stated they intended to retain the vehicle. The chapter 7 trustee filed a report finding that there was property available for

1 distribution from the estate over and above that exempted by
2 debtor. The court notes that the debtors received a discharge
3 from all dischargeable debts on September 15, 2005.

4 On September 22, 2005, Wells Fargo Bank, N.A. ("movant")
5 filed a motion, notice, and declaration requesting that this
6 court vacate the automatic stay to permit movant to repossess
7 the vehicle. The Kelley Blue Book value of the vehicle is
8 approximately \$10,050. The motion and declaration establish
9 that the debtor owes the movant approximately \$20,241.51.

10 Movant contends that debtors voluntarily surrendered the
11 vehicle.

12 No opposition to the motion was filed. Upon review of the
13 record, the court determined that the written record was
14 adequate and that no oral argument is necessary.

15 Conclusions of Law

16 The automatic stay of acts against the debtor in personam
17 and of acts against property other than property of the estate
18 will terminate when an individual in a case under chapter 7 is
19 granted a discharge. 11 U.S.C. § 362(c)(2)(C).

20 Because the debtor was granted a discharge, the motion for
21 relief from the automatic stay as to the debtor is moot. Thus,
22 the motion will be denied.

23 The motion will be granted as to the trustee because the
24 trustee did not file a timely opposition.

25 An appropriate order will issue.

26 Dated: October 27, 2005

27 
28 UNITED STATES BANKRUPTCY JUDGE

1 CERTIFICATE OF SERVICE
2

3 On the date indicated below, I served a true and correct
4 copy(ies) of the attached document by placing said copy(ies) in
5 a postage paid envelope addressed to the person(s) hereinafter
6 listed and by depositing said envelope in the United States
7 mail or by placing said copy(ies) into an interoffice delivery
8 receptacle located in the Clerk's Office.

9
10 Paul and Dawn Porter
11 4648 Roadrunner Drive
12 Ione, CA 95640

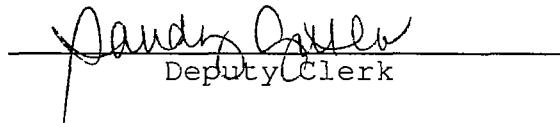
13 Michael Germain
14 945 Morning Star Drive
15 Sonora, CA 95370

16 Michael Burkart
17 5150 Fair Oaks Boulevard #101-185
18 Carmichael, CA 95608

19 Wells Fargo Bank, N.A.
20 c/o Law Offices of Carolyn Morris
21 P.O. Box 3947, 1350 Montego Way
22 Walnut Creek, CA 94598

23 Office of the United States Trustee
24 United States Courthouse
25 501 "I" Street, Suite 7-500
26 Sacramento, CA 95814

27 Dated: 10/31/05

28 

29 Sandy Oeller
30 Deputy Clerk